



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

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CERTIFIED MAIL

January 23, 2007

Richard A. Nylen, Esq.  
Lynch DeSimone & Nylen, LLP  
12 Post Office Square  
Boston, Massachusetts 02109

Re: NEWBURYPORT - Solid Wastes/COR  
Crow Lane Landfill  
Paragraph 4 - Placement of C & D  
Approval  
FMF No. 39545

Dear Attorney Nylen:

The Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, Solid Waste Section (the "MassDEP") and the Office of the Attorney General are in receipt of your letter dated January 16, 2007 requesting confirmation from MassDEP that New Ventures Associates, LLC ("New Ventures") may resume placement of Construction and Demolition Fines and Residuals ("C & D Fines and Residuals") at the Crow Lane Landfill in Newburyport, Massachusetts. You submitted the request to MassDEP and the Office of the Attorney General by email on January 16, 2007 in accordance with paragraph 4 of the preliminary injunction entered on October 20, 2006 in Suffolk Superior Court, Civil Action No. 06-0790 C (the "Order") for the Crow Lane Landfill in Newburyport, Massachusetts. In your letter you state that New Ventures is in compliance with paragraph 3 of the Order and has complied with paragraphs 1(m), 1(r), and 1(z) as required by paragraph 4 of the Order.

On January 3, 2007, MassDEP sent you by email the attached list of action items dated January 3, 2007 (the "Action List"). Pursuant to the requirements of the Order, the items on the Action List were to be completed before New Ventures may resume the placement of C & D Fines and Residuals at the Crow Lane Landfill under paragraph 4 of the Order. These items included, without limitation, the following actions that New Ventures must perform to mitigate and control the release of leachate from the landfill pursuant to paragraph 1(u) of the Order:

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- 1) Determine and document the 80% capacity level for each tank (100% capacity level is the elevation of the lowest invert to each tank);
- 2) Determine and record the leachate levels in each [leachate] tank [including the “yellow” tank truck] on at least a daily basis with the exception of Tanks 4 and 5 which shall be monitored periodically [not less than twice per day] during the day to evaluate the flow rate; and
- 3) Commence and record the pumping of all tanks as necessary to maintain the level of leachate at 80% capacity or less to prevent system bypass and leachate breakouts. As discussed with New Ventures in order to initially evaluate the flow rate of leachate into the system leachate tanks 4 and 5 shall initially be pumped not less than twice per day and tanks 1, 2, and 3 not less than daily.

In addition, pursuant to paragraph 9 of the Order, the Action List and accompanying email notified New Ventures that on January 2, 2007, the landfill gas pre-treatment system had not met the performance standard for operation specified in Appendix A, Section D of the Order and therefore New Ventures could not resume placement of C & D Fines and Residuals at the landfill until New Ventures demonstrated and MassDEP concurred that the pre-treatment system is operating in accordance with the performance standards of Appendix A, Section D of the Order. As a result, New Ventures recharged the media in the landfill gas pre-treatment system. Subsequently, monitoring data from January 16 and 17, 2007 showed that the landfill gas pre-treatment system again was not meeting the performance standards specified in Appendix A, Section D of the Order. New Ventures again recharged the media in the landfill gas pre-treatment system.

As a result and, after MassDEP’s review of New Ventures compliance with the Action List, New Ventures may resume the placement of C & D Fines and Residuals at the Crow Lane Landfill in Newburyport, Massachusetts in accordance with paragraphs 3 and 4 of the Order provided New Ventures:

- 1) Remains in compliance with the Order;
- 2) Fully and completely performs all of the actions described in Section A and D of the Action List including, without limitation, implementation of the leachate mitigation and control measures described above; and
- 3) Has operated the landfill gas pre-treatment system in compliance with the performance standards of Appendix A, Section D of the Order for the 48 hour period immediately preceding the resumption of the receipt of C & D Fines and Residuals at the Crow Lane Landfill and New Ventures continues to operate the landfill gas pre-treatment system in compliance with the Order.

Pending approval of the Revised Corrective Action Design (“RCAD”) received by MassDEP on January 5, 2007, MassDEP authorizes New Ventures to utilize the surface grades depicted in the RCAD for the Phase IA area. This authorization does not constitute a final approval of the RCAD. The RCAD was received by

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MassDEP on January 5, 2007 and is titled:

Corrective Action Design  
Final Landfill Closure  
For  
Crow Lane Landfill  
March 17, 2006  
(Revised: December 20, 2006).

If you have any questions please contact me at (978) 694-3299.

Sincerely,

**This final document copy is being provided to you electronically by the  
Massachusetts Department of Environmental Protection.  
A signed copy of this document  
is on file at the DEP office listed on the letterhead.**

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John A. Carrigan, Chief  
Solid Waste Management Section

Certified Mail Number: 7005 1820 0007 7732 1848

Attachments

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